

Township of Springfield, PA

Monday, July 14, 2014

## Chapter 47. HUMAN RELATIONS; DISCRIMINATION

**[HISTORY: Adopted by the Board of Commissioners of the Township of Springfield 9-14-2011 by Ord. No. 914. Amendments noted where applicable.]**

### § 47-1. Short title.

This ordinance shall be known as the "Springfield Township Human Relations Ordinance."

### § 47-2. Purpose; declaration of policy.

- A. Springfield Township finds that it is of high public importance to adopt appropriate legislation to insure that all persons, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap, use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or sexual orientation, gender identity or gender expression, enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and public accommodation.
- B. The Board of Commissioners of Springfield Township hereby declares it to be the public policy of the Township to foster equality and equal opportunity for all citizens, regardless of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression, in all matters affecting employment, housing and commercial property and public accommodation, and to safeguard the right of all persons to remain free from discrimination or discriminatory practices in any of the foregoing aspects of their lives.
- C. Nothing in this ordinance shall be construed as supporting, endorsing or advocating any particular doctrine, point of view, or religious belief. On the contrary, it is the express purpose and intent of this ordinance that all persons be treated fairly and equally and that all persons in Springfield Township be guaranteed fair and equal treatment under law.
- D. This ordinance shall be deemed an exercise of the police power of the Township of Springfield, as provided under the Pennsylvania Municipal Code, for the protection of the public welfare, prosperity, health and peace of the community of Springfield Township.

### § 47-3. Definitions; construal of terms.

- A. The following words and phrases, when appearing in this ordinance, shall have the meanings given to them under this section:

**BOARD OF COMMISSIONERS**

The Board of Commissioners of Springfield Township, Montgomery County.

**DISCRIMINATION**

Any discriminatory act(s) taken by any person, employer, entity, employment agency, or labor organization, with respect to or involving a transaction related to employment or public accommodations, on the basis of a person's actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression.

### **DISCRIMINATORY ACTS**

All acts or actions defined in the Pennsylvania Human Relations Act *Editor's Note: See 43 P.S. § 951 et seq.* as unlawful discriminatory practices as related to employment, public accommodations, publicly offered commercial property or housing accommodations on the basis of actual or perceived race, color, religious creed, ancestry, sex, national origin, handicap or use of guide or support animals because of blindness, deafness or physical handicap of the user or because the user is a handler or trainer of support or guide animals, or because of an individual's sexual orientation, gender identity or gender expression. The below rights are hereby recognized as and declared to be civil rights, which shall be enforceable as set forth in Section 4 of the Pennsylvania Human Relations Act.

- (1) **EMPLOYMENT** — The opportunity for an individual to obtain employment for which he is qualified.
- (2) **PUBLIC ACCOMMODATION** — The opportunity for an individual to access food, beverages, lodging, resort or amusement which is open to, accepts or solicits the patronage of the general public, but shall not include any accommodations that are in their nature distinctly private.
- (3) **COMMERCIAL PROPERTY OR HOUSING** — The opportunity for an individual to obtain any commercial property or housing accommodation for which he is qualified.

### **EMPLOYEE**

Does not include any individuals who, as a part of their employment, reside in the personal residence of the employer.

### **EMPLOYER**

Any person who employs four or more employees, including the Township, its departments, boards and commissions, and any other government agency within the jurisdiction of the Township, save those of any government agency whose laws may be deemed preemptive of this ordinance.

### **GENDER IDENTITY OR EXPRESSION**

Self-perception, or perception by others, as male or female, including an individual's appearance, behavior, or physical characteristics, that may be in accord with, or opposed to, one's physical anatomy, chromosomal sex, or assigned sex at birth, and that shall include, but is not limited to, persons who are undergoing or who have completed sex reassignment, are transgender, or are gender-variant.

### **ORDINANCE**

This ordinance, which shall be referred to as the "Springfield Township Human Relations Ordinance."

### **PERSON**

Any natural person, fraternal, civic or other membership organization, corporation, general or limited partnership, proprietorship, limited-liability company, or similar business organization, including the Township, its departments, boards and commissions, and any other for-profit and nonprofit organization.

### **SEXUAL ORIENTATION**

Actual or perceived homosexuality, heterosexuality and/or bisexuality.

#### **TOWNSHIP**

The Township of Springfield, Montgomery County, Pennsylvania.

- B. Any terms of this ordinance not expressly defined herein shall be construed in a manner consistent with the Pennsylvania Human Relations Act.

### **§ 47-4. Prohibited acts.**

- A. Discrimination in employment, housing and commercial property or any public accommodation is prohibited under this ordinance.
- B. Retaliation against any individual because such person has opposed any practice forbidden by this ordinance or because such person has made a charge, testified, or assisted in any manner in any investigation or proceeding under this ordinance is prohibited under this ordinance.
- C. Aiding, abetting, inciting, compelling or coercing the doing of any act declared by this ordinance to be an unlawful practice, or obstructing or preventing any person from complying with the provisions of this ordinance, is prohibited under this ordinance.

### **§ 47-5. Exception.**

Notwithstanding any other provision of this ordinance, it shall not be an unlawful practice for a religious corporation or association to commit any of the acts as defined in § 47-4 of this ordinance.

### **§ 47-6. Human Relations Commission.**

- A. Pursuant to the authority set forth under § 962.1 of the Pennsylvania Human Relations Act, 43 P.S. § 962.1, there is hereby established a Human Relations Commission for the Township of Springfield, which shall be known as the "Springfield Township Human Relations Commission."
- B. The Springfield Township Human Relations Commission shall consist of four members, who shall be appointed to terms of three years by the Township Board of Commissioners. The terms of the members of the Commission shall be staggered, such that the terms of 1/3 of the members of the Commission shall expire each year. All members of the Commission shall be residents or business owners of the Township of Springfield and shall serve without compensation.
- C. The Chairperson of the Commission will designate one member as needed to receive a complaint and conduct an intake meeting with the complainants. The member charged with this duty shall not participate in any mediations involving parties to the complaint for which they handled the intake, nor shall this member vote on complaints brought in front of the Commission.
- D. The Human Relations Commission shall, annually, designate one member to serve as Chairperson of the Commission. The Chairperson shall be responsible for coordinating the activities, meetings, and operations of the Commission, as set forth under this ordinance. The Chairperson shall also report, from time to time, to the President of the Board of Commissioners regarding the activities of the Commission.
- E. Members of the Commission shall, as soon after their appointment as practical, attend such training and education seminars or sessions as deemed necessary to acquaint themselves with the functioning of the Springfield Township Human Relations Commission under this ordinance, as well as the terms, conditions and provisions of the Pennsylvania Human Relations Act, and the operation of the Pennsylvania Human Relations Commission. Such training and education shall be as directed by the Chairperson and shall be performed in conjunction with the State Human Relations Commission.
- F. The Springfield Township Human Relations Commission shall have all of those powers necessary to execute the duties set forth under this ordinance, provided that such powers shall not exceed those

exercised by the Pennsylvania Human Relations Commission under the Pennsylvania Human Relations Act.

- G. The Springfield Township Human Relations Commission shall operate within the scope of funds that may be allocated, on an annual basis, by the Board of Commissioners and shall not exceed the annual allocation in any year, except upon prior approval by the Township Board of Commissioners. In adopting this ordinance, the Board of Commissioners hereby expresses its intention that the operation of the Springfield Township Human Relations Commission under this ordinance shall be supported by volunteers, unpaid staff, and volunteer efforts and shall be as close to "zero cost" to the Township as reasonably feasible.

## **§ 47-7. Procedures for filing complaints.**

- A. Any person claiming to be aggrieved by a practice that is made unlawful under this ordinance may make, sign and file a verified complaint, as provided under Subsection **B** of this section, alleging violations of this ordinance. Such complaint shall, at a minimum, contain the following information:
- (1) The name, telephone number, mailing address and e-mail address (if applicable) of the aggrieved person(s);
  - (2) The name, telephone number, mailing address and e-mail address (if applicable) of the person(s) alleged to have committed the prohibited practice;
  - (3) A concise statement of the facts, including pertinent dates, time, locations, people, and acts involved constituting the alleged discriminatory practice;
  - (4) Such other information as may be required by the Commission.
- B. Complaints may be filed in person at the office of the Township Manager or by mailing such complaints to the Township offices to the attention of the Township Manager or the member of the Commission designated to handle intake. All such complaints must be received by the Township within 180 days of the occurrence of the last act giving rise to the complaint, or such complaint shall be dismissed as untimely.
- C. The Township Manager shall transmit all complaints received to the Chairperson of the Commission not later than 10 days after receipt of the complaint. The Township Manager shall conspicuously mark the face of the complaint with the date the document was first received in the Township offices.
- D. The Commission may promulgate forms for use by persons wishing to file a complaint; however, complaints that are prepared without the use of an approved form shall be deemed acceptable under this ordinance so long as the facts set forth under Subsection **A** of this section can be clearly determined from the document submitted as a complaint.
- E. The Commission may provide for a process by which persons seeking to file a complaint may consult with a volunteer or other staff person affiliated with the Commission who is trained to assist the prospective complainant in discerning the facts relevant to the prospective complaint. Such process shall also include referral of additional information to the prospective complainant concerning the content of this ordinance, the content of the Pennsylvania Human Relations Act, and the availability of the Pennsylvania Human Relations Commission as an additional venue within which the prospective complainant may seek redress when possible.

## **§ 47-8. Notifications by Commission; filing of answer by respondent.**

- A. Within 30 days of the receipt of a complaint, the Commission shall:
- (1) Send a copy of the complaint to the person(s) charged with a discriminatory act or practice under this ordinance (the "respondent"), together with a copy of this ordinance.

- (2) Send a notice to the complainant, informing him or her that the complaint has been accepted and processed by the Commission. If the complaint alleges discrimination on a basis proscribed under federal or state law, the notice shall also inform the complainant of his or her right to file a complaint with the Pennsylvania Human Relations Commission or the federal Equal Employment Opportunity Commission, as well as the United States Department of Housing and Urban Development, where applicable.
  - (3) Notify the Pennsylvania Human Relations Commission of the filing of any complaint that may be deemed to be within the jurisdiction of that Commission, as required under the Human Relations Act.
  - (4) Include a notice to both the complainant and the respondent(s) of their option to elect to proceed to voluntary mediation in order to resolve the matters giving rise to the complaint.
- B. The respondent(s) shall file a written verified answer to the complaint within 30 days of service of the complaint. An answer shall be filed in the same manner as a complaint.

### **§ 47-9. Mediation.**

- A. Within 30 days of receipt of an answer to a complaint or, where no answer is filed, within 60 days of service of the complaint upon the respondent(s), the Commission shall proceed in accordance with the following options, in the event that both parties have consented to mediation under **§ 47-8A(4)**:
- (1) The Commission shall refer the matter to a recognized alternative dispute-resolution service, which same service may be provided through Montgomery County, the Montgomery County Bar Association, or any other professional mediation service provider, or may refer the matter to a licensed member of the Pennsylvania Bar who may be willing to perform service to the Commission as a volunteer mediator. Any costs or expenses that may be associated with the mediation shall be the responsibility of the parties.
  - (2) The parties shall jointly select the mediator, however, the Commission shall retain the authority to act as the mediator in the event that the parties have agreed to mediation but cannot jointly agree on a mediator. Mediation sessions conducted by the Commission may proceed with a minimum of two eligible Commission members. Mediation sessions shall remain private and not otherwise subject to public attendance.
- B. When mediation has resulted in an amicable resolution of the complaint and the complaint is resolved, the Commission shall notify the parties that the complaint has been dismissed and shall record the result of the mediation in the notice of dismissal.
- C. In the event that the complaint has not been resolved through mediation, the parties are entitled to proceed to the Court of Common Pleas in Montgomery County.

### **§ 47-10. Nonlimitation of remedies.**

Nothing contained in this ordinance shall be deemed to limit the right of an aggrieved person to recover under any other applicable law or legal theory.

### **§ 47-11. Effect on other filings.**

This ordinance shall have no jurisdiction over matters that are the subject of pending or prior filings made by an aggrieved person before any state or federal court or agency of competent jurisdiction.

### **§ 47-12. Violations and penalties.**

Any person who shall violate any provision of **§ 47-4** of this ordinance may be subject by the Montgomery County Court of Common Pleas, or by any court of competent jurisdiction, to the

penalties enumerated in Section 9(f)(1) and (2) and Sections 9.2, 9.3, 10 and 11 of the Pennsylvania Human Relations Act. *Editor's Note: See 43 P.S. § 959(f)(1) and (2) and 43 P.S. § 959.2, 959.3, 960, and 961.* The penalties contained in this ordinance shall mirror any future changes to the Pennsylvania Human Relations Act as adopted by the General Assembly and approved by the Governor.

- A. This ordinance extends the protections of the Pennsylvania Human Relations Act to include actual or perceived sexual orientation, gender identity or gender expression.
- B. The penalties included in the Pennsylvania Human Relations Act shall be extended to include all protected classes enumerated in the Springfield Human Relations Ordinance.